

## **ARTICLE 418 (SAFETY AND LAW ENFORCEMENT PLAN)**

### **PROJECT NO. 2035-006**

#### **Purpose**

This *Safety and Law Enforcement Plan* (Plan) meets the requirements of Article 418 of the license and takes into consideration the expanded recreational use of the reservoir and surrounding and adjacent public lands. The Plan is designed to protect Denver Water's recreational and operational infrastructure, natural resources, and restoration/rehabilitation efforts and the safety of the public. The Plan will provide the necessary level of safety and law enforcement service at a land- and water-based recreational facility.

#### **FERC Requirements**

##### **1. Public Safety Facilities and Measures**

#### **Procedures**

Denver Water will hire or contract an on-site recreation manager to facilitate law enforcement and public education.

Denver Water will develop law enforcement operating policies and procedures. Initial tasks will include:

- Develop patrol objectives, procedures and schedules.
- Develop forms for documenting law enforcement and emergency operations.
- Establish standards for initial and on-going training/certification.

Denver Water will develop standards for law enforcement equipment, including vehicles, uniforms and radios.

Denver Water will develop an education campaign to inform visitors, the media and the public about changes in the reservoir's management, including regulations.

Denver Water caretakers and their vehicles will be made identifiable. This will increase the appearance that the reservoir is a monitored area. Caretakers will be identifiable but not uniformed and vehicles will bear Denver Water emblems.

#### **Communications**

Denver Water will upgrade internal and interagency communications by:

- Providing the recreation manager with radios compatible with Boulder Regional Communications Center (BRCC) law enforcement, fire and medical operations.
- Working with BCSO, USFS and BRCC to test radio transmissions and locate and address terrain-related dead spots.
- Assuring direct communication capabilities with Denver Water caretakers either by dedicated radio channel or cell phone.
- Providing the recreation manager and caretakers with training in BRCC radio procedures and protocols.

Denver Water will develop a system for exchanging records and information on law enforcement problems among local agencies, including the Boulder County Sheriff's Office (BCSO), the Forest Service (USFS), Boulder County Parks and Open Space and others.

Denver Water will work with BRCC to develop an on-call emergency notification system whereby the recreation manager and appropriate law enforcement personnel are notified of after-hours incidents at the reservoir.

### **Emergency Response Measures**

Denver Water will install emergency telephones for public use at strategic points around the reservoir.

Denver Water will designate a location where visitors can report law enforcement problems or emergencies or receive emergency care. An emergency phone will be available outside this location for use when the facility is not staffed.

Denver Water will designate, sign and enforce "No Parking" areas in front of all emergency gates, emergency access points and along all roads where parking could impede fire and emergency vehicle access.

Denver Water will identify an ambulance staging area at the main boat launch area. This site should serve as the primary evacuation point for victims of boating accidents or when boat transport of parties injured on shore is more practical than overland transport.

### **Map Development** (*see Safety and Law Enforcement Map page 3*)

Denver Water will develop a map of the reservoir and distribute it to the Boulder County Sheriff's Office (BCSO), the Forest Service (USFS) and other agencies and individuals providing law enforcement services at Gross. The map will show all roads, gates, emergency access points, boat landings, incident staging areas, emergency phone locations, fire response cache/boathouse location, a designated area to report law enforcement problems, the ambulance staging area and other key sites.

## **2. Entity Responsible for Safety and Enforcement**

Denver Water will hire or contract an on-site recreation manager to facilitate law enforcement and public education. As recreation increases and other circumstances warrant, Denver Water may consider using seasonally contracted Boulder County Sheriff's Deputies and Rangers. The recreation manager will be responsible for the following duties: land and water patrol; public contact and education; fire and emergency medical response; on-call response; light maintenance.

If the USFS is in agreement develop, enact and publicize a single set of regulations for the Gross Reservoir jurisdictional area (FERC boundary). The Recreation Manager will have the authority to enforce these regulations, regardless of property ownership (i.e. Denver Water, USFS). If the USFS is in agreement these regulations should carry a penalty assessment. To reduce impacts on adjacent private property and to assure adequate emergency access, fines for parking violations will be as high as possible. To the extent possible, revenue from fines will be earmarked for use at the reservoir for management.

If acceptable to Boulder County, recreational rules and regulations, including parking fee compliance, will be adopted into County law. This will enable all law enforcement agencies to enforce these rule and regulations with attendant consequences to those who violate them.

If all parties are agreeable, Denver Water will work to realign Fire Protection District boundaries to place the entire FERC boundary area in the Cherryvale Fire Protection District. Mutual aid, backup, support and technical assistance should be provided by High Country FPD, Coal Creek FPD and various BCSO contractors

If realignment is completed, steps should be taken to enact any necessary agreements for fire services, particularly with local FPDs, USFS, and BCSO.

The Recreation Manager will be designated as the Resource Advisor to work with the Incident Commander (IC) on fires and emergencies. The Recreation Manager will provide information to the IC about sensitive natural and restoration areas and Denver Water/USFS infrastructure.

The Recreation Manager will be responsible to regularly evaluate the condition and effectiveness of supplies in the fire cache located in the boathouse on the north shore peninsula and make additions to these supplies as needed.

### **3. Implementation schedule**

#### **Within the First Two Years Following Acceptance of this Plan**

- Denver Water will hire or contract a recreation manager. The recreation manager will begin land and water patrols, public contact and education, fire and emergency medical response and on-call response.
- The recreation manager will establish those procedures identified in the “Procedures” section of this plan.
- The recreation manager will establish those communication procedures identified in the “Communication” section of this plan.
- Emergency access points, incident staging areas, emergency phone locations and the ambulance staging area will be established and formalized.
- Discussions will begin with BCSO and USFS to determine the feasibility of instituting a single set of regulations for the Gross Reservoir jurisdictional area (FERC boundary).
- Discussions will begin with the Cherryvale Fire Protection District, High Country FPD and Coal Creek FPD to determine the feasibility of realigning the Fire Protection District boundaries to place the entire FERC boundary area in the Cherryvale Fire Protection District.

#### **Within the First Five Years Following Acceptance of this Plan**

All the physical improvements associated with this plan will be constructed.

When visitation levels and use patterns are better understood, Denver Water will reassess staffing levels to determine whether additional law enforcement efforts are necessary. If required, Denver Water will make changes to the Safety and Enforcement Plan filed with the FERC.

### **Management and Services Existing Conditions**

#### **Law Enforcement**

Jurisdictional authority at Gross Reservoir and surrounding land is shared by Denver Water (Denver Water), Boulder County Sheriff's Office (BCSO) and the USFS. Since Denver Water is not a department of the city or county of Denver, these governmental entities have no jurisdictional authority over the reservoir. Law enforcement jurisdiction and responsibilities at Gross are primarily shared by BCSO and USFS. Under existing cooperative agreements, BCSO has sole jurisdiction on property (land and water) owned and managed by Denver Water, and has joint jurisdiction on USFS land. BCSO has jurisdictional authority on major crime scenes regardless of land ownership.

USFS Law Enforcement Officers enforce federal regulations as well as state wildlife statutes. The Colorado Division of Wildlife (DOW) has authority over all wildlife in the state and enforces state wildlife and fishing regulations on both Denver Water and USFS

property. DOW presence at Gross is limited, sporadic and concentrated at popular fishing areas.

The lack of a single, jurisdictional authority at Gross creates confusion for the public and some operational inefficiency for law enforcement service providers. As described below, the lack of a single jurisdictional authority also creates inefficiencies when issuing citations and working with the courts.

### ***Statutes and Citations***

Currently, a variety of state, county and federal statutes are in effect at Gross Reservoir. Ideally, there should be one set of regulations and one overall management philosophy for Gross, regardless of land ownership or jurisdictional authority (e.g., Denver Water's desire to manage and protect its water resources is, at times, in conflict with USFS' intention not to restrict public use of public land.)

The majority of citations are issued by BCSO deputies, who deal with diverse violations under the Colorado state "unlawful conduct" statute. Under the current system, a BCSO deputy must write a State citation for unlawful conduct, then also cite the Boulder County unlawful conduct statute or other relevant regulation. Citations issued in this manner carry a mandatory court appearance rather than a mail-in fine. Issuing a citation for violating both state and county unlawful conduct statutes is an inefficient and cumbersome process that is complicated for the officer, consumes an inordinate amount of the officer's limited time, and unduly detains the violator. In addition, citations issued in this manner carry a mandatory court appearance, which is unusual for the types of misdemeanor offenses encountered in parks. Mandatory court appearances for parks offenses also place an undue burden on the judicial system, the officer, and the defendant.

Existing federal statutes do not address some of the management problems and objectives for the reservoir (e.g. body contact with the water, parking, congregating at Rocky Point). Existing federal statutes, however, can be supplemented by Supervisor's Orders, which allow for the adoption of forest-specific regulations. Federal enabling legislation (36CRF261.50 Orders) to empower the Forest Supervisor and others to "...issue orders which close or restrict the use of described areas over which he has jurisdiction. An order may close an area to entry or may restrict the use of an area...". Enacting USFS Supervisor's Orders may prove to be problematic and limiting though, since Forest-specific orders must be chosen from a master list of preexisting orders, and since enacting Orders may now require a full Nation Environmental Policy Act (NEPA) process.

Denver Water has enacted several regulations governing the use of its land and water (e.g., no body contact with the water), however, Denver Water staff are not legally authorized to issue citations. Caretakers, however, contact and issue written warnings to violators. The Caretaker 1 job description reads, in part, "Patrols assigned Departmental property to prevent vandalism, trespassing and fires..." Between April and October, caretakers are on the property 24 hours a day, seven days a week, frequently witnessing and encountering unlawful or unsafe situations. Despite the fact that they have no legal

authority and do not receive training in making public contacts (or other aspects of law enforcement) caretakers contact violators and in many respects, act as Denver Water's enforcement staff. Caretakers could encounter situations ranging from a family picnic to a homicide. Having caretakers make even fairly low-level law enforcement contacts without the proper authority, training, equipment, resources, and agency support, jeopardizes employee safety and exposes Denver Water to liability.

### ***Violations and Problems***

Law enforcement problems at Gross are typical of those experienced in comparable park-like settings. The most common problems and violations include:

- Body contact with the water, particularly at Rocky Point.
- Impacts to nearby private property including trespass, noise and blocked driveways.
- Trespassing on the dam.
- Litter.
- Unlawful camping.
- Discharge of firearms
- Automobile break-ins
- Unlawful fires.
- Underage drinking.
- Off-road vehicles.
- Vandalism to Denver Water infrastructure and damage to natural resources.
- Parked vehicles blocking/impeding emergency access.

These law enforcement problems are not insurmountable and not unusual for a recreation site in fairly close proximity to a major metropolitan area, especially considering the historic lack of a law enforcement presence at Gross Reservoir. Addressing these problems will require planning, multi-agency coordination, and a commitment of resources by Denver Water, particularly since the addition of boating at the reservoir, population growth on the Front Range and a corresponding increase in demand for outdoor recreation areas will likely increase visitation at Gross Reservoir.

### ***Patrol and Law Enforcement Presence***

The absence of a regular and consistent law enforcement presence at the reservoir is a significant problem, resulting in unlawful activity and strained relations with private property owners. It also contributes to the public perception that Gross is an unregulated "free zone." Not having trained law enforcement personnel on-site means there is a delayed response to most problems, while some problems are not addressed at all. This may jeopardize public and employee safety; result in damage to natural resources, private property and infrastructure; and frustrate adjacent private property owners.

Denver Water pays BCSO to provide law enforcement services at Gross. Due to limited staffing, however, neither BCSO nor USFS patrol the area routinely, therefore, there is no

consistent law enforcement presence at the reservoir. BCSO has one deputy assigned to patrol the county's 30 square mile mountain district, which includes Gross. This deputy patrols the Gross area when possible, and responds to calls and emergencies at Gross as call load and priorities allow. Historically, deputies have done periodic "impact" patrols in response to specific problems or complaints (e.g. target Rocky Point for a half-day). Additional patrol is performed by deputies who volunteer for extra duty, generally in the form of four-hour shifts. This extra duty system does not adequately address the need for a law enforcement presence at Gross.

Because deputies work a standard 12-hour shift, few are interested in extra duty work. The deputies most likely to sign up for extra duty are those needing supplemental income rather than those interested in and trained in park law enforcement, or that can best represent Denver Water to the public. Also, these deputies may have very little knowledge of Gross Reservoir, which is problematic given the area's remoteness and potentially disorienting darkness at night. Unfamiliarity with the area and the short extra duty shift (four hours) may also discourage the type of foot patrol and patrol of remote locations required to address law enforcement problems at Gross.

USFS provides limited law enforcement services on its land adjacent to Gross, focusing on the peak public use season. The USFS devotes approximately 13% of their total law enforcement dollars to BCSO for extra patrols. For the foreseeable future, neither USFS nor BCSO will have the resources or the mandate to provide a consistent law enforcement presence at Gross. The amount of money currently paid to BCSO by Denver Water and USFS will not be adequate to fund the level of law enforcement services needed to meet increased public use and expanded recreation at the reservoir. In addition, the increasing law enforcement call load throughout the county may result in longer response times and possibly an overall reduction in services provided to Denver Water by BCSO.

Gross Reservoir's location creates additional problems for BCSO and USFS officers. The reservoir's remoteness and primitive road conditions slow deputy response time and may even discourage patrolling at Gross, since a deputy patrolling there is "taken out of circulation" and is basically unable to respond elsewhere in his/her district in a timely manner. The reservoir's isolation also has implications for officer safety, since backup officers and support resources are distant and probably unfamiliar with the area.

The most consistent, official presence in the Gross area is by Denver Water caretakers, who are not legally authorized to issue citations. However, caretakers, who are not in uniform or identifiable (except for a Denver Water emblem on their vehicles), contact and issue written warnings to violators. In addition, there may also be long-term maintenance and operations implications from having caretakers defer their routine maintenance duties in order to engage in public contacts. Numerous items should be considered before Denver Water allows staff to make law enforcement contacts, including:

- Addressing liability issues with Denver Water administration, Board and legal staff.
- Adopting a law enforcement philosophy and objectives for Gross.
- Establishing the legal jurisdiction and authority of Denver Water and selected employees.
- Creating job descriptions for personnel with law enforcement duties.
- Addressing issues of arrest authority, prisoner transport and processing, armed versus unarmed officers, intermediate weapons, and weapons storage.
- Developing programs for initial and on-going training and certification.
- Developing law enforcement policies and procedures.
- Developing legal documentation of law enforcement activities, including patrol logs, incident reports, use of force reports and other forms.
- Acquiring law enforcement vehicles, equipment and uniforms.
- Developing, enacting and publicizing statutes, regulations, and/or resolutions.
- Coordinating with Denver Water legal staff, the Boulder County District Attorney's office and the county judicial system.
- Coordinating with backup and support agencies and developing the necessary interagency agreements, memos of understanding, etc.
- Upgrading and coordinating internal and interagency communications (e.g., radio frequencies and equipment, dispatching, training).
- Developing an on-call or after-hours emergency notification system.

### ***Equipment and Resources***

Denver Water caretakers utilize telephones, hand-held radios and vehicle radios to communicate with each other and with outside agencies. Most Denver Water internal radio communications occur on a dedicated Denver Water channel, which permits efficient communications among Denver Water employees. Communications with BSCO and other agencies occur on BRCC channels Red 1 and Red 3, channels dedicated to fire and medical incident radio traffic. While the use of Red 1 and Red 3 facilitates communications during fire and medical incidents, they are not appropriate or efficient channels to use for law enforcement purposes. Denver Water radios do not enable caretakers to communicate directly with law enforcement dispatchers or officers responding to Gross since these communications generally occur on Green and Yellow channels.

### **Fire and Emergency Medical Services**

BCSO and three fire protection districts (Cherryvale FPD, Coal Creek Canyon FPD and High Country FPD) provide fire and emergency medical response at Gross. Denver Water has a service contract with Coal Creek FPD, which, in turn, has mutual aid contracts with Cherryvale and High Country FPDs. Similarly, USFS has a service contract with BCSO, which then subcontracts services to the three FPDs, and other special service providers (BES, e.g.). As with serious law enforcement incidents, BCSO has statutory authority on fire and emergency medical incidents.



USFS personnel and engines respond to wildfires and smoke reports on USFS land adjacent to Gross. USFS personnel may respond from anywhere in their district (most often from Nederland), resulting in response times of up to one hour or more. USFS personnel generally do not respond to medical calls unless already on-scene or in the immediate vicinity and able to offer assistance.

Several other agencies respond to emergency incidents at the reservoir as needed, including:

- Pridemark Ambulance (medical calls, support on fires and major incidents).
- Boulder Emergency Squad (contracted through BSCO for water rescue and recovery).
- Rocky Mountain Rescue Group (contracted through BSCO for land-based search and rescue, particularly technical rescue and evacuation).
- Front Range Rescue Dogs (land and water search and recovery).

Currently a three-tiered emergency response system is in place for medical incidents. Under this system, BCSO, Pridemark Ambulance and the FPD with jurisdiction are notified simultaneously of an incident. FPD jurisdiction is determined by district boundaries, with Cherryvale FPD being responsible for roughly the north side of Gross, Coal Creek Canyon FPD the south, and High Country FPD the west. In the early stages of an incident, FPD jurisdiction is often unknown, therefore all three agencies may be simultaneously notified and provide initial response. Notification and incident communications are coordinated through BRCC.

### ***Call Load and Problems***

Call loads in the Gross area are difficult to determine, however, all agencies report the current call load is manageable. Cherryvale, the FPD that responds most often to Gross, reports 20-25 calls per year. Fire/medical incidents at Gross are typical of recreation sites featuring rough terrain, water, camping and somewhat unregulated use. Incidents requiring emergency response include lost hikers, various personal injuries, medical emergencies (e.g. heart attack), and vehicle accidents. On average there is one water-based fatality per year and one land-based fatality every three years.

USFS reports 12-15 smoke reports during a typical summer and High Country FPD responds to at least one smoke report per week during the summer. The majority of smoke reports are related to campfires on USFS land. The number of wildfires varies annually, with the last significant fire in the area occurring in September, 2000.

Many of the conditions that impede law enforcement operations also affect fire/medical emergency services at Gross.

- Not having trained emergency services personnel on-site results in a delayed response to incidents. Delayed medical response may jeopardize public and employee safety. Delayed fire response may jeopardize public and employee

safety and result in damage to natural resources, private property, and Denver Water and USFS infrastructure.

- Private vehicles parked on narrow roads may block emergency access, particularly for over-sized emergency vehicles such as ambulances and fire engines.
- The reservoir's remoteness and primitive road conditions slow response time.
- Increasing call loads in the local FPDs and throughout the county may result in longer response times to calls at Gross Reservoir.
- Increased call loads will divert emergency personnel and resources from other duties, such as the fire mitigation work that the Cherryvale FPD performs for homeowners.

Additional conditions that have implications for emergency services include:

- Steep terrain requiring technical rescue and evacuation.
- High winds and storms that approach rapidly and with little warning.
- Cold, deep water presenting hazards for victims of boating accidents and for rescue personnel, and requiring technical rescue support from BES.
- The wildfire threat to nearby private property and residences.

Providing emergency medical services at Gross will require planning, multi-agency coordination, and a commitment of resources by Denver Water. Increased visitation from the addition of boating, upgrading the facilities at the reservoir and Front Range population growth, will place additional demands on the emergency response system and resources. BCSO, the local FPDs and other support agencies (e.g., BES) are unlikely to be able to provide additional resources and service to Gross at current funding levels. In addition, agencies with already limited resources will be reluctant to leave the bulk of their districts "unprotected" while providing additional service to Gross.

### ***Equipment and Resources***

Communications during fire/medical incidents are generally adequate. Denver Water caretakers utilize telephones, hand-held radios and vehicle radios to communicate with each other and with outside agencies. Most Denver Water internal radio communications occur on a dedicated Denver Water channel, which permits efficient communications among Denver Water employees. Communications with BSCO, FPDs and other agencies occur on BRCC channels Red 1 and Red 3, channels dedicated to fire and medical incident radio traffic.

Denver Water provided Coal Creek Fire Protection District with a boat, which is housed on the north side of the reservoir. Cherryvale FPD conducts weekly boat maintenance in the summer. While adequate for maintenance and operational use, this boat will not be adequate as a patrol and rescue boat. BES can respond with a boat if needed, however, up to a one-hour response time should be anticipated. Additional fire/medical equipment (e.g., back boards, water rescue equipment, fire tools, water pumps, Nomex clothing) are generally not available at the reservoir but are provided by responding agencies. In

general, the reservoir must become more self-sufficient in responding to emergency medical incidents.